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NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF :

Administrative Action

JAMES BREMNER, D.C. et. al. :

FINAL ORDER

CHALLENGE TO THE LICENSE :
EXAMINATION TO PRACTICE :
CHIROPRACTIC IN THE STATE OF :
NEW JERSEY :

This matter having been opened to the New Jersey State Board of Chiropractic Examiners (herein after the "Board") by a petition from thirty (30) candidates who took the January 1998 examination challenging the Diagnostic Imaging portion of the examination ("X-ray exam") for the reasons set forth in the Provisional Order of the Board filed on June 5, 1998. As a result of the Board's findings and conclusions made in the June 5, 1998 provisional order only seven out of the 33 original candidates continued their challenge to the January, 1998 x-ray exam. The provisional order allowed the challengers to submit a written

request for modification and/or dismissal of the Board's findings and conclusions.

On June 15, 1998 the Board received a submission from Joseph C. Noto, Esquire on behalf of the seven remaining candidates who continued to contest the x-ray portion of the examination including: James A. Bremner, James Corregano, Karen Czarnecki, Charles Gleason, Christopher Horner, Domenico Mancini, Jr., and Shannon M. Mulvey. Mr. Noto also included two new candidates for inclusion, namely Carmine Allonardo, D.C., and Michael Piszal, D.C. The June 15, 1998 submission also included Exhibits A-G respectively, consisting of: a report and curriculum vitae of Allan B. Rubin, M.D., a radiologist, Exhibit A; a report and curriculum vitae prepared by William E. Litterer, D.C., a licensed New Jersey chiropractor, Exhibit B; a report and curriculum vitae of Kathleen Kappy Lundquist, Ph.D., a psychometrician, Exhibit C; and the certifications of Christopher Horner, Exhibit D, Domenico Mancini, Exhibit E, and Shannon Mulvey, Exhibit F, candidates who alleged that the seating prevented them from properly answering slide # 1 on the x-ray examination. Darren Hartung prepared a written response, Exhibit G, giving his reasons for the answer he provided in the technique portion of the examination.

Also included in the submission package was (1) a chart indicating that slides 1,3,4,5,6,7,8,13,14,17 and 19 were challenged by each of the above named candidates and providing the response the candidates sought as a correct answer and (2) a January 21, 1998 X-Ray exam answer comparison sheet. This comparison sheet set

forth the Board's accepted answer, Dr. Perrault's finding, the answer the candidates suggested, Dr. Litterer and Dr. Rubin recommendations for each particular slide.

At the July 23, 1998 meeting of the Board of Chiropractic Examiners, the challengers submissions were reviewed and considered by the Board, along with a review of the examination slides by Dr. Fred M. Palace, M.D., a radiologist (attached hereto as Exhibit A).¹ After considering all of this information the Board made the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Upon review and consideration of the comments made in the reports of Drs. Rubin, Litterer, Perrault and Palace, in conjunction with its own expertise, the Board made the following additional findings as to each slide challenged:

a. The board's accepted response to slide #1 will remain as Spondylolisthesis at L5. The challengers' submissions as presented in Exhibits D, E and F include certifications from Christopher Horner, Domenico Mancini and Shannon Mulvey indicating that they could not see the slide as they were seated in the last row of the examination room, when asked to either relocate to another seat or to stand for better view, the request was denied.

¹Dr. Palace reviewed all 55 slides comprising the Board's x-ray slide bank. Thus, the answers to the slides which are not part of this examination have been redacted from his report in order to protect the confidentiality of the slides which will be used in future examinations.

Dr. Rubin's report, (page 2) notes that the "slide does show Anterior Spondylolisthesis." He further commented that the slide may be difficult to see from a distance because of the overlying pelvic structures. It should be noted that Dr. Litterer did not comment regarding the answer to slide #1.

The Board reiterates that its members viewed each of the slides, immediately prior to the commencement of the x-ray examination and from all angles in the room and ascertained that the slides were visible, focused and clear from obstructions. See certification of Laura L. Anderson, Executive Director, attached hereto as Exhibit B. Thus, no credit will be given for the answers provided by the three students challenging slide #1.

b. The Board's accepted answer to slide # 3 was "Pagets Disease." Dr. Rubin recommended that in addition to Pagets disease that the Board accept "L1 compression fracture and metastatic disease." Dr. Rubin included in his discussion that the "butterfly vertebra" is an incorrect answer and is unacceptable. He also stated that "burst fracture" should be an acceptable answer as Dr. Rubin noted that the slide demonstrated compression fractures of two (2) vertebral bodies. Dr. Litterer concurred with the diagnosis of compression fracture, Pagets disease, blastic and lytic metastasis and compression/burst fracture.

Dr. Palace diagnosed slide 3 as "Pagets." The Board determined that it would accept "burst fracture" and metastasis disease in addition to Pagets Disease for slide #3.

c. The accepted answer for slide #4 by the Board was "Lymphoma, Osteoblastic metastasis or Pagets." Dr. Rubin noted that the Board accepted a differential diagnosis for this slide. He confirmed that the presence of "ivory vertebra" supported this differential diagnosis and he further commented that the Board should accept "Metastasis/Malignant Disease." Dr. Rubin commented that "he agreed with Dr. Perrault's comments that a candidate should be able to differentiate between lytic and blastic process but the exam instructions did not require a process and thus the degree of specificity required by the Board's answer was not warranted."

Dr. Litterer noted that the acceptable answer to slide 4 should be "Pagets disease, metastasis, and lymphoma." Dr. Palace confirmed that this slide depicted L2 "ivory" vertebral body secondary to lymphoma, Pagets and idiopathic metastatic CA."

The Board considered these comments and reaffirmed that it would accept the three answers originally identified in the Board answer key. The Board rejected "metastasis disease" as a possible answer and relied upon the explanation provided by Dr. Perrault in his report that while "osteoblastic metastasis is a sub-category of metastatic disease, the differences are quite significant and affect the ability of the candidate to understand basic tenets of radiology." "Osteoblastic represents blastic deposition or an increased density in film. If the candidate cannot understand the concepts of blastic versus lytic... this

questions their knowledge of basic radiologic densities and their competency to interpret a radiograph."

d. The accepted answer to slide #5 was "Compression Fracture L1 or Multiple Myeloma." Dr. Rubin suggested that the board should accept either traumatic compression fracture or pathologic compression fracture. Dr. Litterer concurred that the slide demonstrated a compression fracture. He disagreed with Dr. Rubin that a diagnosis of "Pathological fracture" was discernable in this slide because "you cannot visualize the sacral base in the film in order to count up to make a determination at which level the lumbar vertebral compression fracture" was located. Thus, Dr. Litterer would accept "compression fracture" only for this answer. He provided in his report a rationale for rejecting multiple myeloma which was a response accepted by the Board as a correct answer.

Dr. Perrault did not comment on this slide as this slide was not questioned in the challenger's initial letter submitted to the Board. Dr. Palace concurred with the Board's answer and found this slide to demonstrate L2/L3 compression fractures. After reviewing the information, the Board determined that its original answer would stand.

e. The Board's accepted answer for slide #6 was "Missing Spinous Lamina C5-C6." Dr. Rubin concurred that the "spinous processes of C5 and C6" are missing. Thus, he concluded that the response "laminectomy is unequivocally correct." Further, Dr. Rubin also pointed out that "Os Odontodium" is not a correct or

acceptable answer to slide #6. Dr. Litterer commented that the Board should have accepted "laminectomy" as an additional answer as the Board's expert, Dr. Perrault stated in his report that "surgical intervention was the only possibility to prove the board's findings regarding the missing spinous processes at C5 and C6." Therefore, Dr. Litterer concluded that "laminectomy" is an appropriate response to slide 6.

Dr. Palace found that slide #6 demonstrated a "Post laminectomy C5 and C6. Based on the foregoing, the Board accepted laminectomy as an additional response to slide #6.

f. The accepted answer to slide #7 by the Board was "Burst Fracture." The rationale for accepting "burst fracture" as a response to slide 7 was included in Dr. Perrault's report and set forth in the provisional order. Dr. Rubin agreed with Dr. Perrault's analysis regarding the importance of recognizing a Burst Fracture because of the potential effect on the spinal cord. However, Dr. Rubin noted that the slide did not show a spinal cord at L3 and that a lateral view is necessary to "assess the possible displacement of a fragment of the bone into the canal." Thus, according to Dr. Rubin a lateral view would be necessary to confirm a "burst fracture." Dr. Rubin further noted that "a burst fracture is a type of compression fracture in which the inter pedicle distance is widened indication a burst fracture." He also concluded that the "classic linear lucent line in-between the featured fragment is not seen on this film" and that the slide depicted a "clasp knife deformity at the L5/S1 level." Thus, Dr.

Rubin concluded that the acceptable answers to slide 7 should also include "metastatic disease, Pathological Compression fracture due to malignancy, clasp knife deformity at L5/S1 and Compression Fracture."

Dr. Litterer found a "knife clasp deformity" in this slide present at L5,S1. He concurred with Dr. Rubin that a lateral view was needed to determine whether the slide in question demonstrated a "burst fracture." Dr. Litterer opined that " you cannot have a burst fracture without a compression fracture." Therefore, he concluded that the acceptable answers to this slide are "compression fracture, metastatic disease and knife clasp deformity."

Dr. Palace found that compression fracture L3 was an accepted answer. Dr. Palace did not recognize a knife-clasp deformity in this slide. The Board maintained for the reasons set forth in the provisional order and Dr. Perrault's report that slide #7 represented a "Burst Fracture." However, the Board considered the arguments that compression fracture is a proper diagnosis for this slide and agreed to accept both "Burst Fracture and Compression Fracture." The Board rejected "knife clasp deformity" as a possible answer as this response identifies a congenital lesion with no significant consequence in terms of treatment.

g. "Pagets Disease" was the Board's accepted answer for slide # 8. Dr. Rubin noted that the slide showed "multiple ill-defined areas of the pelvis which have a blastic appearance Metastatic Prostate Carcinoma, can present with a similar picture

and is sometimes extremely difficult to differentiate from Pagets Disease." Therefore he would accept "metastatic disease" as correct. Dr. Litterer agreed with Dr. Rubin's conclusion.

Dr. Perrault suggested that metastatic carcinoma would be acceptable as well as "Pagets disease." Dr. Palace found that this slide represented "Paget's [sic] disease vs. osteoblastic mets in the left iliac bone (probably Paget's)." The Board agreed to accept both Pagets and metastatic disease as the answer to slide #8.

h. The accepted Board answer to slide #13 was "Discogenic Spondylosis with a vacuum disc at L5." In his report, Dr. Rubin agreed that the slide depicted a "Vacuum Sign at the L5/S1 interspace indicating advanced disc degeneration and the findings are consistent with spondylosis." Dr. Rubin also noted that the dense white or "Ivory Vertebra" appeared at the entire L5 vertebral body and commented that an experienced radiologist would realize." Thus, Dr. Rubin concluded that a chiropractor should not be held to the standard of a radiologist. He also found that the board should accept "blastic metastasis" as a correct answer to slide #13.

Dr. Litterer commented that the Board in its provisional order stated that slide # 13 constituted "lytic metastasis disease of the L3 vertebral body." It should be noted that this was a typographical error. The reference should have been to slide #14 and not slide #13. Therefore, Dr. Litterer's discussion regarding an answer which was inconsistent with the Board's answer sheet is

inaccurate. The Board's Answer sheet properly indicated that the Board accepted "Discogenic spondylosis, vacuum disc L5" as the answer to this question and not "lytic mets". This was a typographical error in the provisional order and not a discrepancy in the Board's answer sheet. Dr. Litterer commented that "blastic mets/ met disease and Vacuum sign at L5/S1" were acceptable answers to slide #13. Additionally, it should be clarified that the findings in the Board's Provisional Order were not determined by Dr. Cianculi but reflect the decision of the majority of the Board.

Dr. Palace also noted "a narrowed L4-5, destroyed L5-S1." Relying on the the response from Dr. Palace, the Board voted to reject blastic mets or mets disease as an acceptable answer to slide #13.

i. The accepted response to slide #14 by the Board was "lytic metastasis at L3." Dr. Rubin concurred with the Board that slide #14 represented a "classic appearance of lytic metastatic lesion and agreed with the explanation provided by Dr. Perrault regarding slide #14 representing "Lytic Mets L3" . However, he suggested that the Board also accept "metastatic disease" as a correct answer.

Dr. Litterer also noted that the Board should accept "Metastatic Disease" as the response to slide #14. He opined that a candidates response of "Metastatic Disease" was sufficient to demonstrate the correct answer. According to Dr. Litterer the candidate's ability to differentiate between lytic and blastic

metastatic disease did not make as difference because by responding with "Metastatic disease" the candidate had pinpointed a "pathology which the candidate could not treat and must refer."

Dr. Perrault agreed that the correct answer to slide #14 was "lytic mets disease, " while Dr. Palace found that the slide depicted "osteolytic metastases L3". Thus, the Board agreed that the proper response to this slide was "lytic mets." However, after considering the comments provided, the Board voted to also accept "metastatic disease" as well as "lytic mets disease."

j. The accepted answer to slide #17 was "A.S." (only). The Board did not accept "Pagets Disease as a correct response to this slide." Dr. Rubin suggested that in addition to "A.S." the slide also demonstrated "Osteitis Condensans Ilii" because of the "changes in the S.I. joints." Dr. Rubin concluded that because the board accepted differential diagnosis for slide #4, it should also give credit for "Osteitis Condensans Ilii. Dr. Litterer, on the other hand, concluded that the following answers should be accepted: "A.S., OCI, Sacroilitis, Psoriatic arthritis and Rieter's syndrome." He strongly disagreed with the Board that the answer to slide #14 should be limited solely to "A.S."

The Board reaffirmed that the only response acceptable for this slide was "A.S." The Board noted that the candidate's ability to observe the erosive changes demonstrated on this film was essential in determining the correct diagnosis. The Board found that the erosive changes shown in this slide were unusual to

support the diagnosis of Osteitis Condensans Ilii. Therefore, the Board rejected all other recommended answers.

k. The accepted Board answer to slide #19 was "Metastatic Disease." Dr. Rubin suggested that the film depicted "mixed lytic and blastic patterns." He also would accept fracture due to malignancy. Dr. Litterer concurred with Dr. Rubin's diagnosis.

Dr. Perrault also noted that the fracture was due to a malignancy. The Board was in agreement that "fracture due to malignancy" should also be accepted as a correct response to slide #19.

2. Darren Hartung challenged the first question on the Technique portion of the examination. Question one of the Technique examination required that the candidate review the subluxations and demonstrate the correction of each listing and answer the corresponding questions. The listing noted in this question was "Axis Body left." The question also required the candidate to indicate the segmental contact point, the line of drive and the contact point. The Answer key to this examination question attached as Exhibit B, indicated that the segmental contact point for this question was the "Left Lamina Pedicle Junction," the line of drive was the "P-A, I-S in accordance with the Disc Plane Line" and the contact point was "Knife Edge."

Darren Hartung provided an explanation for his response (Exhibit G to the respondent's submissions) to the adjustment

procedure where he details performing an "Entire Body Left axis which would result in a pivot to the right on the Y axis."

The Board also allowed Dr. Hartung to review his particular adjustment technique with Dr. Sabia in order to reconsider his challenge to the adjustment he performed on the technique examination. Unfortunately, Dr. Sabia was not present at the July 23, 1998 meeting and was on an extended vacation until September, 1998 thus, the Board did not have the results of the review he conducted with Darren Hartung for consideration at the time that this issue was decided.

Upon reviewing this candidate's examination and the submission marked Exhibit G, the Board affirmed the decision of the examiner that noted that the candidate's thrust was incorrectly performed from right to left and the contact point indicated by the candidate was on the right spinous and the Lamina Pedicle Joint, instead of the knife clasp edge. Therefore, the Board affirmed the decision of the initial examiner.

CONCLUSIONS OF LAW

For the reasons set forth herein and in the Provisional Order the Board reaffirms the following:

1. The identification of the conditions reflected in the radiographs included in the x-ray exam is a skill required and encompassed within the scope of practice of chiropractic as defined

in N.J.S.A. 45:9-14.5 and N.J.A.C. 13:44E-1.1(b) and tested the minimum level of competence of candidates.

2. The preparation and content of the examination for a license to practice chiropractic is within the purview of the Board pursuant to N.J.S.A. 45:9-41.8.

Determination

Upon consideration of the submissions of the respondent's experts and the independent review by Fred Palace, M.D. and Terence Perrault, D.C., the Board determined that it would consider additional answers for the following slides:

1. a. Slide #3: Burst fracture and metastasis disease in addition to Pagets Disease.

b. Slide #6: Laminectomy in addition to "Missing processes of C5 and C6.

c. Slide #7: Compression Fracture in addition to Burst Fracture.

d. Slide #8: metastatic disease in addition to Pagets Disease.

e. Slide #19: Fracture due to Malignancy was accepted in addition to Metastatic Disease.

f. The answers to slides #1,4,5,13, and 17 remain unchanged.

Additionally, the Board accepted "metastatic disease" as a response to slide #14.

As a result of its continued review, the Board regraded all 143 sheets of the individuals who sat for the January 1998 Diagnostic Imaging portion of the licensure examination and gave credit to those individuals for the additional answers set forth herein. Accordingly, a total of 125 candidates have passed the x-ray portion of the examination.

IT IS on this 7th day of October 1998;

ORDERED:

1. A total of 125 individuals have passed the x-ray exam and were advised of said determination prior to the July 31, 1998 examination. Having met all other licensure requirements, those individuals who have passed all of the sections of the examination are to be issued a license to practice chiropractic in the State of New Jersey.

2. Based on the Board's reconsideration and determination as detailed above and a regrading of the exam, the Board finds that 8 of the 9 candidates represented by Mr. Noto, Esquire have passed the x-ray examination. Karen Czarnecki did not receive additional credit from the additional responses accepted by the Board after reconsideration of this matter.

3. Darren Hartung's response was reviewed along with the candidate's test and the Board did not find sufficient evidence to establish that the adjustment that Darren Hartung performed at the January 1998 technique examination should be accepted as

passing. Thus, the original grade given to Darren Hartung stands. Dr. Hartung was advised to retake the technique portion of the examination offered by the Board in July, 1998.

4. Any candidate who was successful in passing the x-ray exam after the Board's reconsideration of the respondent's submissions, who reapplied to sit for the examination and submitted an examination fee will receive credit (in the amount of the examination fee) towards their license application fee.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS

BY: 
EUGENE CIANCULLI, D.C.
PRESIDENT